

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

OSMIN MELENDEZ and SATURNINA
MELENDEZ, his wife,

Plaintiffs,

COMPLAINT

-against-

EAN HOLDINGS, LLC and DEBORAH A.
COGSWELL,

Civil Action No.
1:20-cv-1423 (GLS/DJS)

Defendants.

The Plaintiffs, OSMIN MELENDEZ and SATURNINA MELENDEZ, by and through her attorneys, BASCH & KEEGAN, LLP, complaining of the Defendants, EAN HOLDINGS, LLC and DEBORAH A. COGSWELL, allege that:

THE PARTIES

1. At all times hereinafter alleged, the Plaintiff, Osmín Meléndez, resided in Saugerties, Ulster County, New York.

2. At all times hereinafter alleged, the Plaintiff, Saturnina Meléndez, resided in Saugerties, Ulster County, New York.

3. At all times hereinafter alleged, the Plaintiffs, Osmín Meléndez and Saturnina Meléndez, were lawfully married and resided together at their marital residence in Saugerties, Ulster County, New York.

4. Upon information and belief, at all times hereinafter alleged, the Defendant, EAN Holdings, LLC, is a limited liability company duly organized and existing under the laws of Oklahoma, with its principle place of business located at 6111 South Sheridan Road, Tulsa, Oklahoma.

5. Upon information and belief, at all times hereinafter alleged, the Defendant, EAN Holdings, LLC, was in the business of renting and leasing motor vehicles.

6. Upon information and belief, at all times hereinafter alleged, the Defendant, Deborah A. Cogswell, resided at 378 Wee Acres Road, Defuniak Springs, Florida 32433.

SUBJECT MATTER JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this civil action pursuant to 28 U.S.C. § 1332(a)(1).

8. The Plaintiffs in this action are citizens of the State of New York.

9. The Defendants in this action are citizens of the States of Oklahoma and Florida, respectively.

10. The instant controversy exceeds the sum or value of \$75,000.00.

11. Venue is proper in the New York State District Court, Northern District of New York pursuant to 28 U.S.C. § 1391.

FACTS

12. At all times hereinafter alleged, and specifically on June 29, 2020, the Plaintiff, Osmin Melendez, was operating a 2003 Ford bearing New York State Registration Plate Number HMD3532, for the then current period of registration.

13. Upon information and belief, at all times hereinafter alleged, and specifically on June 29, 2020, the Defendant, EAN Holdings, LLC, was the registered owner of a 2019 Ford bearing Florida Registration Plate Number DFTV26, for the then current period of registration.

14. Upon information and belief, at all times hereinafter alleged, and specifically on June 29, 2020, the Defendant, Deborah A. Cogswell, was operating the 2019 Ford bearing New York State Registration Plate Number DFTV26, with the permission and consent, whether implied or express, of the Defendant, EAN Holdings, LLC.

15. Upon information and belief, at all times hereinafter alleged, State Route 9W at its intersection with Manor Lane in the Town of Saugerties, Ulster County, New York, was and still is a public thoroughfare.

FIRST LEGAL CAUSE OF ACTION

(Negligence)

16. The Plaintiffs repeat, reiterate and reallege each and every allegation in those paragraphs marked and designated "1" through "15", inclusive, with the same force and effect as though fully set forth herein at length.

17. On June 29, 2020, the Defendant, Deborah A. Cogswell, owed the Plaintiff, Osmin Melendez, a duty of reasonable care.

18. On June 29, 2020, the Defendant, Deborah A. Cogswell, breached her duty of reasonable care.

19. On June 29, 2020, the Defendant, Deborah A. Cogswell, caused a two vehicle, motor vehicle accident with the Plaintiff, Osmin Melendez.

20. The Defendant, EAN Holdings, LLC, is legally responsible for the negligent acts of Deborah A. Cogswell pursuant to Vehicle and Traffic Law § 388.

21. The Defendants' negligence was a substantial factor in causing the subject motor vehicle accident.

22. The Defendants' negligence caused the Plaintiff, Osmin Melendez to sustain "serious injury" as that term is defined by New York State's Insurance Law.

SECOND LEGAL CAUSE OF ACTION

(Derivative Claim)

23. The Plaintiffs repeat, reiterate and reallege each and every allegation in those paragraphs marked and designated "1" through "22", inclusive, with the same force and effect as though fully set forth herein at length.

24. At all times hereinafter alleged, the Plaintiffs, Osmin Melendez and Saturnina Melendez, were lawfully married.

25. At all times hereinafter allege, and on June 29, 2020, the Plaintiffs, Osmin Melendez and Saturnina Melendez, resided together at their marital residence in Saugerties, Ulster County, New York.

26. As a result of the Defendants' negligence, the Plaintiff, Saturnina Melendez, has been forced to render extra care, aide, and attention to her husband, Osmin Melendez, in an effort to heal him and to aide in his recovery.

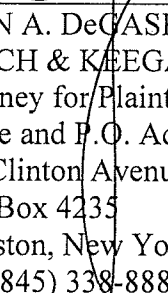
27. The Plaintiff, Saturnina Melendez, sustained a loss of consortium, loss of services, and loss of financial support of her husband, Osmin Melendez, as a result of the Defendants' negligence.

28. The Plaintiffs demand a jury trial in this action.

WHEREFORE, the Plaintiffs, Osmin Melendez and Saturnina Melendez, seek monetary damages worth not less than \$75,000, together with the costs and disbursements of this action, reasonable attorney's fees and all such other and further relief as this Court deems just and proper.

Dated: November 16, 2020
Kingston, New York

Yours, etc.,



JOHN A. DeGASPERIS, ESQ.
BASCH & KEEGAN, LLP
Attorney for Plaintiffs
Office and P.O. Address
307 Clinton Avenue
P.O. Box 4235
Kingston, New York 12402
Tel: (845) 338-8884